

## **Federal Identity Theft Task Force Comments**

Provided By:

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Thank you for the opportunity to comment on the Task Force's recommendations. I have been assigned to an FBI Task Force which focuses on high technology crimes and identity theft. I am familiar with the techniques used by identity thieves, having investigated them from both a computer forensic perspective and other traditional investigations. I have formal identity theft training through California Police Officers Standards and Training (POST) and have testified as an expert witness on identity theft in San Mateo County California Superior Court.

### **I. Maintaining the Security of Consumer Data**

Your recommendations place a great deal of focus on the electronic storage of consumer data. While this concentration of personally identifiable information makes a tempting target for identity thieves, in my experience it is not the primary source of this information.

Clearly the Federal and State Governments should take the lead in protecting social security numbers. The private sector, too, must also reform the handling of this data. I hold out the example of Ancestry.Com which currently publishes the social security numbers of deceased individuals. This data continues to have value as ID thieves seek to take from the estates of those persons, including but not limited to targeting State abandoned property systems.

Accurint, ChoicePoint, and other aggregators have improved their security to previous breaches. Other data sources which haven't received scrutiny continue to sell or publish personal information: zabasearch.com, intelius.com, peoplefinder.com, etc.

My experience shows that the single greatest source of stolen personal information is not stolen electronic records. Stolen documents are routinely used by identity thieves. I recommend the Task Force contemplate improving the security of the United States Mail, including but limited to improving mailbox design requirements to include locks. Public mailbox locks should be redesigned to discourage key duplication. Apartment complex mailbox bulk delivery keys appear to be particularly easy to manufacture. The thieves use these keys to rifle through delivered mail, stealing mail which appears to have value. I advocate that residential mailboxes be required to have locks.

I also advocate the strengthening of law surrounding the practice of dumpster diving and recyclable thefts. Personal information is often found in such receptacles. California has a law prohibiting such collection, 41950 of the California Public Resources Code. There is little training around its importance or nexus to identity theft.

## II. Preventing Misuse of Consumer Data

One area which cries for reform is the issuance of “courtesy checks” by credit card companies. These blank checks arrive without consumer solicitation and are often discarded without shredding, making them targets for “dumpster divers”. Coupled with readily available false identifications, these checks are easily negotiated at merchants. The consumer does not know they are missing (they didn’t request them) and the stores accept them so long as they are within the credit limits of the account.

In California, there is black market software which facilitates the production of fake driver licenses. This software is named “NobelCat”; I frequently find it on the computers of identity thieves. It allows someone to make a passable driver license within minutes. I routinely find evidence that hundreds of such identifications are produced by a single suspect.

## III. Victim Recovery

In an ideal world, restitution would be of value to an Identity Theft victim. Unfortunately, the suspects generally have few assets and little ability to make restitution. Further, the “loss” is difficult to quantify, as the victim’s loss amount to the amount of time necessary to clean up the mess. A more valuable form of restitution would be to allow a tax deduction for the time spent. I’m not sure, however, such a scheme could be put in place without being abused.

The Credit Reporting Bureaus provided training to me in which they provided documents of suspects submitting false police reports in order to “clean” their credit records. This situation is an example of well intentioned victim recovery legislation being abused.

#### IV. Law Enforcement: Prosecuting and Punishing Identity Thieves

The Federal Trade Commission has jurisdiction over Identity Theft. The Justice Department, however, is the standard interface for law enforcement agencies in reporting crimes. It seems to me the better place identity theft jurisdiction is with the Justice Department. The FTC is creating a duplicate system to track ID Theft and it's not as widely known as the existing DOJ systems (NCIC, etc).

The FTC sponsors the Consumer Sentinel, a system which receives reports from victims and allows access to law enforcement. Only a small percentage of victims, however, use the system. And, new requirements issued by the FTC to law enforcement make the system too rigid to be of much use. I plan on deactivating my Department's access, as the "cost" is too high relative to the benefit received.

The finite Criminal Justice System resources are often prioritized toward "person crimes" and not "property crimes". ID Theft investigations consume an disproportionate amount of resources and often result in probation. The jails are overcrowded and ID thieves don't merit the space which is reserved for violent offenders.

Enhancing penalties for identity theft would be valuable if the judges and attorneys would prosecute the crimes. US Attorneys in my district are bound by thresholds which are high relative to other areas of the country.

Finally, I should mention the burden associated with working with creditors. Typically, they are distrustful of a "cold call" from a person identifying themselves as a police officer. They often require a search warrant to reveal information about their customers. It is difficult, therefore, to work a case which involves theft via credit cards. A system should be established which facilitates the exchange of information between credit companies and law enforcement. Creditors should be mandated to assist law enforcement in their investigations, rather than interpreting fraud losses as a cost of doing business and discouraging prosecution through lack of assistance.

Please feel free to contact me if you require further information about observations. My office telephone number is 650-261-2811. I can be reached by email at [shall@reacttf.org](mailto:shall@reacttf.org).